

special project, and that the Center is not aware of any other deterioration in its ability to process service requests.<sup>115</sup>

36. We find that PacTel's CEI plan comports with the installation, maintenance, and repair requirement. We conclude that PacTel's CEI plan, together with the representations that PacTel has made in this proceeding, provide sufficient detail on the procedures it will employ to ensure that the installation, maintenance and repair functions will be performed on a nondiscriminatory basis. For example, PacTel represents that it will provide installation, maintenance and repair on a nondiscriminatory basis. In addition, PacTel represents that its payphone operations will place orders for network services, and make trouble reports on network services and receive information on the status of network repairs, in the same way as other PSPs, and that the time intervals for providing installation, maintenance and repair will be the same for all PSPs. We find that the record evidence with respect to PacTel's installation, maintenance and repair procedures for PSPs satisfies our CEI requirements.

37. We reject CPA's claim that certain changes to Pacific Bell's service order procedures are inconsistent with representations made by Pacific Bell in its CEI plan. We are satisfied that PacTel has adequately demonstrated that, as a result of these changes, all regrades and supersedure orders will be treated on a nondiscriminatory basis. In addition, we find that Pacific Bell's new procedures do not raise CPNI issues or the possibility of improper notice of new service orders. PacTel represents that Pacific Bell's COPT service center will not disclose any such CPNI regarding independent PSPs to its own payphone operation. The fact that an independent PSP that wants to supersede Pacific Bell's PSP at a particular location will have to negotiate with Pacific Bell's PSP does not alter our conclusion, because Pacific Bell avers that its COPT service center will not disclose any CPNI or information about new service orders to Pacific Bell's payphone operation. Moreover, as PacTel notes, independent PSPs that do not want to negotiate with Pacific Bell's PSP may always submit a new installation order for the site at issue. Additionally, CPA offers no authority, and we find no basis in the Commission's Payphone Orders or CEI rules, for requiring Pacific Bell to assign COPT service center representatives to particular accounts. Finally, we find that PacTel's representations -- namely that Pacific Bell's COPT service center has not changed any of its procedures for confirming due dates to PSPs, that Pacific Bell has long required outgoing PSPs' accounts to be paid in full before processing supersedure orders, and that the COPT service center has not put routine customer service tasks on hold -- adequately respond to the other concerns raised by CPA.

## 6. End User Access

38. With regard to payphone services, this parameter requires the BOC to provide to all end users the same network capabilities to activate or obtain access to payphone

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<sup>115</sup> Id.

services that utilize the BOCs facilities. This parameter also requires the BOC to provide all end users equal opportunities to obtain access to basic network facilities.<sup>116</sup>

39. According to PacTel, its payphone service operations will use the same tariffed services available to all independent PSPs.<sup>117</sup> As a result, PacTel's payphone service operations will only present end users with the same network-based operational characteristics that are available to independent PSPs for presentation to their end users.<sup>118</sup> PacTel represents that no unique abbreviated dialing or signaling arrangements, and no special service channel access arrangements, are or will be associated with its payphone service operations.<sup>119</sup> We find that PacTel's CEI plan comports with the end user access requirement established by the Commission.

## 7. CEI Availability

40. This requirement obligates a carrier's CEI offering to be available and fully operational on the date that it offers its corresponding payphone service to the public. The requirement also obligates the carrier to provide a reasonable time prior to that date when prospective users of the CEI offering can use the CEI facilities and services for purposes of testing their payphone service offerings.<sup>120</sup>

41. The payphone rulemaking proceeding established the following tariffing requirements for LECs. LECs must file tariffs in the states for basic payphone services that enable independent PSPs to offer payphone services using either smart or dumb payphones and for any unbundled features that the LECs provide to their payphone operations or to others.<sup>121</sup> LECs are not required to file tariffs for the basic payphone line for smart and dumb payphones with the Commission.<sup>122</sup> As stated in the Clarification Order, a LEC is required to file federal tariffs for payphone-specific, network-based features and functions "only if the

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<sup>116</sup> See Phase I Order, 104 FCC 2d at 1041, para. 162; Payphone Order at para. 199.

<sup>117</sup> PacTel CEI Plan at 10.

<sup>118</sup> Id.

<sup>119</sup> Id.

<sup>120</sup> The testing period is necessary "to balance the conflicting interests of the carrier, which should have a reasonable period to develop, test, and 'de-bug' its CEI offerings before making them publicly available, and other CEI users, such as competitors, that might suffer an unfair competitive disadvantage if carriers were able to test and perfect their . . . services -- particularly, their interconnection with the basic underlying facilities -- while withholding those same basic facilities from others." Phase I Order, 104 FCC 2d at 1041, para. 163.

<sup>121</sup> See Clarification Order at para. 8.

<sup>122</sup> Reconsideration Order at paras. 162-163.

LEC provides them separately and on an unbundled basis from the basic payphone line, either to its payphone operations or to others . . . ."<sup>123</sup>

42. The Clarification Order also granted all LECs a limited waiver of the federal tariffing requirements for unbundled features and functions that a LEC must meet before it is eligible to receive payphone compensation. Pursuant to this waiver, LECs must file interstate tariffs for unbundled features and functions within 45 days of the release date of the Clarification Order, with a scheduled effective date of no later than 15 days after the date the tariff is filed.<sup>124</sup> In addition, each BOC was required to file, by April 10, 1997, a written ex parte document that advises the Commission on the status of intrastate tariffs for the features and functions that it has not yet federally tariffed, and stating that it commits to filing federal tariffs for such features and functions within 45 days of the release date of the Order.<sup>125</sup>

43. PacTel represents that its underlying basic services are, and will be, available to its own payphone service operations and to independent PSPs at the same time in any given geographical service area.<sup>126</sup> PacTel also represents that all of Pacific Bell's CEI services, except inmate services for use with "dumb" payphones, have been available for testing and use by independent PSPs for many years prior to the filing of PacTel's new tariffs, and therefore no additional testing period is required.<sup>127</sup> PacTel adds that Nevada Bell's COPT Service (Basic) has, similarly, been available to independent PSPs for many years, and that no additional testing period is required for that service as well.<sup>128</sup> PacTel acknowledges that Pacific Bell's and Nevada Bell's Inmate Services for use with "dumb" payphones, Nevada Bell's Coin Line service, Nevada Bell's Charge-A-Call service, and Nevada Bell's Enhanced COPT access line service, have not been available to independent PSPs, but represents that these services have been in use by Pacific Bell or Nevada Bell for years.<sup>129</sup> PacTel contends that, if the Commission finds that a testing period would be required for these services absent a waiver, the Commission should grant Pacific Bell and Nevada Bell waivers of the testing period requirement, based on the same rationale that the

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<sup>123</sup> Clarification Order at para. 18.

<sup>124</sup> Clarification Order at paras. 21.

<sup>125</sup> Id. at para. 22.

<sup>126</sup> PacTel CEI Plan at 11.

<sup>127</sup> Id.; Letter from Jeffrey B. Thomas, Pacific Telesis, to Christopher Heimann, Policy Division, Common Carrier Bureau (April 1, 1997) ("Policy Division April 1 Ex Parte").

<sup>128</sup> Policy Division April 1 Ex Parte.

<sup>129</sup> Id.

Commission used to grant waivers of the network disclosure requirements.<sup>130</sup> PacTel represents that, if it adds other CEI services in future, it will provide independent PSPs a reasonable testing period prior to using such new basic service offerings in the provision of its payphone services.<sup>131</sup>

44. PacTel filed with its CEI plan its current state tariffs for payphone services.<sup>132</sup> With its reply, PacTel submitted new state tariffs for payphone services for both Pacific Bell and Nevada Bell.<sup>133</sup> According to PacTel, these new state tariffs were effective on April 1, 1997, for Pacific Bell, and are expected to be effective by April 15, 1997, for Nevada Bell.<sup>134</sup>

45. APCC contends that the CEI plan must be rejected on the ground that PacTel did not file federal tariffs.<sup>135</sup> It contends that, pursuant to the Reconsideration Order, PacTel must file tariffs for unbundled features at both the state and federal levels, and that the only service for which a federal tariff is not required is the basic access line.<sup>136</sup> APCC concludes that PacTel's plan cannot be approved until it has filed all required federal tariffs, including tariffs for coin line features.<sup>137</sup>

46. In an ex parte filing, PacTel represents that, in accordance with the requirements of the Clarification Order, Pacific Bell will file federal tariffs for the following unbundled features and functions: international direct distance calling, 10XXX selective

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<sup>130</sup> Id. PacTel contends that that rationale is applicable here, because providing a testing period prior to Pacific Bell's or Nevada Bell's continued use of these services would require interruption of customer service, which would be contrary to the public interest. Id. In the Payphone Order, the Commission waived the notice period for the disclosure of network information relating to basic network payphone service in order to ensure that payphone services would be provided on a timely basis consistent with the deregulatory requirements of that order. See, infra, para. 57.

<sup>131</sup> PacTel CEI Plan at 11.

<sup>132</sup> PacTel CEI Plan, Attachment A.

<sup>133</sup> PacTel Reply, Exhibit A.

<sup>134</sup> Policy Division April 1 Ex Parte; Policy Division March 20 Ex Parte.

<sup>135</sup> APCC Comments at 5.

<sup>136</sup> Id.

<sup>137</sup> Id.

blocking for bothway Basic COPT service, and answer supervision.<sup>138</sup> PacTel further represents that Nevada Bell will file federal tariffs for international direct distance calling.<sup>139</sup>

47. APCC also argues that PacTel must be required to disclose where coin line service is not available and whether PacTel has any payphones currently installed in those areas.<sup>140</sup> PacTel responds that there are no areas in Pacific Bell's or Nevada Bell's service territories where the BOC currently offers, or where, in future, the BOC will offer, payphone services to its affiliated payphone operations that are not available to unaffiliated PSPs.<sup>141</sup>

48. We find that PacTel's plan complies with the CEI availability requirement.<sup>142</sup> We reject APCC's argument that PacTel must file a federal tariff for all payphone service features and functions, except for the basic access lines for payphone services. As stated in the Clarification Order, BOCs need only submit federal tariffs for payphone-specific, network-based features and functions if the BOC provides them separately and on an unbundled basis from the basic payphone line, either to its payphone operations or to others.<sup>143</sup> As noted, PacTel has committed to file federal tariffs for international direct distance calling, 10XXX selective blocking for bothway Basic COPT service, and answer supervision in Pacific Bell's territory, and for international direct distance calling in Nevada Bell's territory.

49. We also conclude that PacTel is not required to identify in its CEI plan specific geographic areas where coin line service is not available or to state whether PacTel has any payphones in such areas. PacTel has provided sufficient information about the availability of such services. In addition, PacTel represents that there are no areas in its service territories where it currently offers, or will, in future, offer, payphone services to its affiliated payphone

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<sup>138</sup> Letter from Polly L. Brophy, Senior Counsel, SBC Communications Inc. ("SBC"), to William F. Caton, Acting Secretary, Federal Communications Commission (Apr. 10, 1997) (PacTel April 10 Ex Parte).

<sup>139</sup> Id.

<sup>140</sup> APCC Comments at 9.

<sup>141</sup> PacTel Reply at 26 ("For any services that are not available in some areas, that lack of availability would apply equally to our own PSPs as to others."). PacTel notes that its tariff states that its coin line service is "available in Pacific Bell's exchange areas of all exchanges as defined on maps filed as part of Pacific Bell's tariff schedules," and that this service is available throughout Nevada Bell's territory. Id.

<sup>142</sup> We note that our conclusion that PacTel's CEI plan complies with the CEI availability requirement, and therefore our approval of its CEI plan, is contingent on the effectiveness of PacTel's state tariffs for payphone services. As noted above, PacTel represents that its new tariffs for payphone services were effective on April 1, 1997, for Pacific Bell, and are expected to be effective by April 15, 1997, for Nevada Bell. We note further that, because we are relying on the states to review LEC tariffs for basic payphone services, our conclusion that PacTel has satisfied the CEI availability requirement does not represent a determination that PacTel's basic payphone services are tariffed in accordance with the requirements of Section 276.

<sup>143</sup> Clarification Order at para. 18.

operations without making such services available to independent PSPs. We find that PacTel is not required to identify how many of its payphones are "smart" payphones and how many are coin line. We find no basis in our CEI requirements or the payphone orders for directing PacTel to identify how many of its payphones are "smart" payphones and how many are coin line for purposes of satisfying our CEI requirements.

50. Finally, we grant PacTel's request that we waive the 90-day notice requirement for Nevada Bell's provision of COPT Service (Basic) service, Coin Line service, Charge-A-Call service, and Enhanced COPT access line service, and for Nevada Bell's and Pacific Bell's provision of Inmate Services for use with "dumb" payphones. Therefore, Nevada Bell and Pacific Bell may continue to provide such services through the use of the CEI offering described herein without first providing ninety days for unaffiliated carriers to test the service. This waiver is reasonable in this context because, unlike the provision of a new enhanced service, Nevada Bell and Pacific Bell have been offering payphone services using the foregoing services for many years.<sup>144</sup> To bar Nevada Bell and Pacific Bell from continuing to use such services to provide payphone services for a period of ninety days would result in a suspension of service. Nevada Bell and Pacific Bell are not, however, relieved of their obligation to permit unaffiliated PSPs upon request to conduct testing of the foregoing offerings. For purposes of approving this CEI plan, we simply waive the requirement that Nevada Bell and Pacific Bell may not offer the foregoing services before such testing is accomplished. PacTel states that if and when other basic services are deployed, it will provide independent PSPs a reasonable testing period prior to using such new basic service offerings in the provision of its payphone services.<sup>145</sup>

## 8. Minimization of Transport Costs

51. This requirement obligates carriers to provide competitors with interconnection facilities that minimize transport costs.<sup>146</sup> PacTel represents that its tariffed basic payphone services are not distance-sensitive, and thus all PSPs, including its own, pay the same price for such services regardless of distance from PacTel's central offices.<sup>147</sup> We find that PacTel's CEI plan comports with the minimization of transport costs requirement established by the Commission.

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<sup>144</sup> Policy Division April 1 Ex Parte.

<sup>145</sup> PacTel CEI Plan at 11.

<sup>146</sup> Payphone Order at paras. 202-03; Phase I Order, 104 FCC 2d at 1042, para. 164.

<sup>147</sup> PacTel CEI Plan at 11. PacTel adds that, if it does offer and use tariffed basic payphone services on a distance-sensitive basis, it will minimize transmission cost differences between its collocated unregulated payphone equipment and PSPs by using price parity standards that the Commission has approved. Id. (citations omitted).

## 9. Recipients of CEI

52. This requirement prohibits a BOC from restricting the availability of its CEI offering to any particular class of customer or PSP.<sup>148</sup>

53. PacTel avers that none of the tariffs for its payphone services restrict the ability of independent PSPs or any class of customers to purchase its payphone services.<sup>149</sup> We find that PacTel has proposed to provide service to CEI recipients in compliance with the Commission's requirements.

### B. Other Nonstructural Safeguards

54. In addition to the CEI requirements established in Computer III, and applied to BOC provision of payphone services in the Payphone Order,<sup>150</sup> a BOC that provides payphone services must comply with requirements regarding the use of customer proprietary network information (CPNI), disclosure of network information, and nondiscrimination reporting.<sup>151</sup>

#### 1. Customer Proprietary Network Information

55. The Payphone Order requires PacTel to explain how it will comply with the Computer III CPNI safeguards,<sup>152</sup> to the extent they are not inconsistent with section 222 of the Communications Act, as amended.<sup>153</sup> Although the requirements of section 222 became effective immediately upon enactment, the Commission has initiated a proceeding to consider regulations interpreting and specifying in more detail a telecommunications carrier's obligations under this provision.<sup>154</sup> The Commission has concluded that its existing CPNI regulations remain in effect, pending completion of the CPNI rulemaking, to the extent they do not conflict with section 222.<sup>155</sup>

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<sup>148</sup> Payphone Order at paras. 202-03; Phase I Order, 104 FCC 2d at 1042, para. 165.

<sup>149</sup> PacTel CEI Plan at 12.

<sup>150</sup> Payphone Order at para. 202. See also Reconsideration Order at para. 210.

<sup>151</sup> Phase II Order, 2 FCC Rcd at 3082, paras. 73-75.

<sup>152</sup> See Phase II Order, 2 FCC Rcd at 3095, para. 156.

<sup>153</sup> Payphone Order at para. 205 (citing 47 U.S.C. § 222 and CPNI NPRM).

<sup>154</sup> CPNI NPRM at para. 2.

<sup>155</sup> Id. at para. 3 (noting that, to the extent that the 1996 Act requires more of a carrier, or imposes greater restrictions on a carrier's use of CPNI, the statute governs).

56. In its payphone CEI plan, PacTel represents that it will comply with section 222 and all CPNI requirements adopted in the Commission's CPNI rulemaking proceeding.<sup>156</sup> PacTel also represents that it will not disclose or use the CPNI of independent PSPs without their approval, except in the provision of services to such PSPs.<sup>157</sup>

57. APCC claims that PacTel's payphone CEI plan does not offer sufficient information concerning how PacTel will comply with CPNI requirements, but rather merely states that PacTel will follow Computer III procedures, except where inconsistent with section 222.<sup>158</sup> APCC contends that PacTel should explain how it will protect, under nondiscriminatory conditions, the CPNI of PSPs, as well as the CPNI of PacTel's existing customers, including current customers of semi-public payphone service.<sup>159</sup> In addition, CPA argues that PubCom personnel should be denied access to service order, billing or other statistical information about PacTel's business or residence customers, and allowed access to directory information about such customers only on the same basis as other PSPs.<sup>160</sup> CPA contends that, if PubCom is allowed access to PacTel's LEC service ordering systems, those systems must be partitioned to protect LEC customers' CPNI and independent PSPs must be allowed equivalent access.<sup>161</sup>

58. APCC and CPA also argue that, since PacTel's existing tariffed semi-public service is being terminated pursuant to section 276, PacTel's payphone operations have no more right to access and use the CPNI of semi-public service customers than any other PSP.<sup>162</sup> APCC contends that the deregulation of semi-public service presents PSPs with a potential marketing opportunity to replace PacTel as the payphone service provider for these customers. APCC argues that semi-public customers should be provided notice and a meaningful opportunity to replace PacTel with another payphone service provider. It contends that PacTel must disclose how it will provide such notice in a neutral fashion, including giving such customers an opportunity to authorize disclosure of CPNI on a

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<sup>156</sup> PacTel Plan at 14.

<sup>157</sup> Id.

<sup>158</sup> APCC Comments at 22-24.

<sup>159</sup> APCC Comments at 23. See also Letter from Michael S. Wroblewski, on behalf of Peoples Telephone Company, Inc., to William S. Caton, Acting Secretary, Federal Communications Commission, dated March 5, 1997 (Peoples's March 5 Ex Parte).

<sup>160</sup> CPA Comments at 12.

<sup>161</sup> Id. at 12-13.

<sup>162</sup> APCC Comments at 24; CPA Comments at 14-15 (claiming that PubCom's exclusive access to semi-public customers' CPNI, combined with those customers' lack of information about competitive opportunities, threatens to defeat the Commission's goal of achieving a competitive market for pay telephone services).



nondiscriminatory basis to interested payphone providers without preference to PacTel's payphone operations.<sup>163</sup>

59. PacTel responds that its payphone personnel will not have direct access to its service order systems and will not have access to the CPNI of other PSPs.<sup>164</sup> In addition, Pactel states that it will comply with the Commission's rules to implement section 222, and that it anticipates that neither PubCom nor other PSPs will have access to the CPNI of location providers, except with their approval.<sup>165</sup> PacTel further claims that traffic information concerning the use of its deregulated semi-public payphones, as with public payphone service, belongs to PubCom, which is the purchaser of the line, not the site owner or the end users of the payphone.<sup>166</sup> PacTel adds that, even if the location owners were the subscribers to the telephone lines for semi-public service, it could not provide access to the CPNI to other PSPs without the location owners' written consent, because that would violate section 222(c)(1).<sup>167</sup> PacTel also contends that APCC's and CPA's proposal that PacTel be required to inform site owners about competitive options for semi-public payphone service would violate its First Amendment right to free speech, and that PacTel should not be required to perform marketing for its creditors.<sup>168</sup>

60. In providing payphone services, PacTel must comply with the Commission's pre-existing Computer III CPNI requirements, to the extent that they are consistent with section 222 of the 1996 Act, and any regulations adopted by the Commission pursuant to section 222. PacTel represents that it will comply with section 222 and all CPNI requirements adopted in the Commission's CPNI rulemaking proceeding. Accordingly, we find that PacTel's plan comports with CPNI requirements. In reaching this conclusion, we do not address issues raised by APCC and CPA relating to traffic information on the use of semi-public payphones. Issues relating to the interpretation of section 222, and how it relates to the Computer III CPNI rules, are being addressed in the CPNI rulemaking, and therefore will not be considered here. We do, however, reject APCC's and CPA's request that we require PacTel to inform site owners about competitive options for semi-public payphone

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<sup>163</sup> Id. at 24.

<sup>164</sup> PacTel Reply at 32.

<sup>165</sup> Id. (reserving the right to adjust its plans depending on the content of the Commission's order in the CPNI rulemaking).

<sup>166</sup> Id. at 32-33 (noting that the only difference between public payphone service and semi-public payphone service is that, with semi-public service, the PSP charges the site owner for placement of the payphone to make up for lower volumes of payphone usage).

<sup>167</sup> Id. at 33-34.

<sup>168</sup> PacTel Reply at 34 (noting that forcing ratepayers or PacTel's shareholders to pay for such marketing on behalf of its competitors would be inequitable).

publication of new interfaces are not required at this time.<sup>176</sup> PacTel also represents that it will continue to comply with all Commission network disclosure requirements as it develops new services or makes network changes that may affect the interconnection or interoperability of payphone services with the network.<sup>177</sup> Consistent with the requirements of the Payphone Order, PacTel made network disclosures in connection with its payphone services by January 15, 1997.<sup>178</sup> We therefore find that PacTel's CEI plan comports with the Commission's network information disclosure requirements.<sup>179</sup>

### 3. Nondiscrimination Reporting

64. In the Payphone Order, the Commission directed the BOCs to comply with the Computer III and ONA requirements regarding nondiscrimination in the quality of service, installation, and maintenance.<sup>180</sup> Specifically, BOCs are required to file the same quarterly nondiscrimination reports, and annual and semi-annual ONA reports, with respect to their basic payphone services that they file for other basic services to ensure that the BOCs fulfill the commitments made in their CEI plans with respect to the nondiscriminatory provision of covered service offerings, installation and maintenance.<sup>181</sup>

65. PacTel represents that, on a quarterly basis, it will track and report on the installation and maintenance intervals for basic payphone services provided to its payphone

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<sup>176</sup> Id.

<sup>177</sup> Id. at 13-14.

<sup>178</sup> See Letter from Denise Harris, Manager, Federal Regulatory Relations, Pacific Telesis, to William F. Caton, Secretary, Federal Communications Commission (Jan. 13, 1997); Letter from Denise Harris, Manager, Federal Regulatory Relations, Pacific Telesis, to William F. Caton, Secretary, Federal Communications Commission (Jan. 15, 1997).

<sup>179</sup> We note that, in its comments, CPA urged the Commission to require PacTel to provide timely network information disclosures with respect to various network elements and services, including the replacement or upgrading of switches, plans to offer and provide coin refund service and billing services to PubCom, and any call tracking system or service that PacTel develops. CPA Comments at 16-18. As discussed above, PacTel is only required to disclose to the payphone services industry information about network changes and new network services that affect the interconnection of payphone services with the network. PacTel committed to continue to comply with all Commission network disclosure requirements; nothing more is required at this time.

<sup>180</sup> Payphone Order at para. 207.

<sup>181</sup> See Payphone Order at para. 207; BOC ONA Reconsideration Order, 5 FCC Rcd 3084, 3096, Appendix B (1990), BOC ONA Amendment Order, 5 FCC Rcd 3103 (1990), Erratum, 5 FCC Rcd 4045, pets. for review denied, California II, 4 F.3d 1505 (9th Cir. 1993), recon., 8 FCC Rcd 7646 (1991), BOC ONA Second Further Amendment Order, 8 FCC Rcd 2606 (1993), pet. for review denied, California II, 4 F.3d 1505 (9th Cir. 1993); Phase II Order, 2 FCC Rcd at 3082, para. 73; and Filing and Review of Open Network Architecture Plans, CC Docket No. 88-2, Memorandum Opinion and Order, Phase I, 6 FCC Rcd 7646, 7649-50 (1991).

operations and the same intervals for all of its other customers, so that comparisons can be made.<sup>182</sup> PacTel further declares that its reports will contain the same types of information and be in the same format as the information and format the Commission approved in Computer III.<sup>183</sup> We find that PacTel's CEI plan comports with the Commission's nondiscrimination reporting requirements.

### C. Accounting Safeguards

66. In the Payphone Order and the Accounting Safeguards Order, the Commission concluded that it should apply accounting safeguards identical to those adopted in Computer III to BOCs providing payphone service on an integrated basis.<sup>184</sup> Pursuant to Computer III, the BOCs must adhere to certain accounting procedures to protect ratepayers from bearing misallocated costs. These safeguards consist of five principal elements: 1) the establishment of effective accounting procedures, in accordance with the Commission's Part 32 Uniform System of Accounts requirements and affiliate transactions rules, as well as the Commission's Part 64 cost allocation standards; 2) the filing of cost allocation manuals (CAMs) reflecting the accounting procedures and cost allocation standards adopted by the BOC; 3) mandatory audits of carrier cost allocations by independent auditors, who must state affirmatively whether the audited carriers' allocations comply with their cost allocation manuals; 4) the establishment of detailed reporting requirements and the development of an automated system to store and analyze the data; and 5) the performance of on-site audits by Commission staff.<sup>185</sup> PacTel must comply with these accounting safeguards. We note that the approval granted to PacTel in this order is contingent upon the CAM amendments associated with PacTel's provision of payphone service going into effect.

### D. Other Issues

#### 1. Sufficiency

67. APCC, SDPA, and Telco generally assert that PacTel's CEI plan insufficiently describes how PacTel intends to comply with the CEI requirements, and request the

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<sup>182</sup> PacTel CEI plan at 13.

<sup>183</sup> Id.

<sup>184</sup> Payphone Order at para. 157, para. 199, and para. 201; Implementation of the Telecommunications Act of 1996: Accounting Safeguards Under the Telecommunications Act of 1996, CC Docket No. 96-150, Report and Order, FCC 96-490, at para. 100 (rel. Dec. 24, 1996).

<sup>185</sup> BOC Safeguards Order, 6 FCC Rcd at 7591, para. 46.

transmits a unique screening code only on its coin lines, which are primarily used by PacTel's own payphone division, and not on its COPT Service (Basic) lines, which are primarily used by unaffiliated PSPs, PacTel is discriminating in favor its payphone division by providing it a great advantage in the collection of per-call compensation from interexchange carriers. In addition, MCI maintains that PacTel's plan does not provide screening code digits that can be transmitted by PSPs for all access methods and from all locations.<sup>201</sup>

72. PacTel responds that the Commission has acknowledged that a LIDB-based solution is a suitable means of identifying an originating line as a payphone line.<sup>202</sup> PacTel represents that it is taking that approach.<sup>203</sup> In addition, PacTel argues that it is not required to provide the same screening capability to COPT Service (Basic) and coin lines, on the ground that the relevant CEI requirements are satisfied so long as the basic network capabilities it provides to its PSPs are available under tariff to other PSPs.<sup>204</sup>

73. We find that the issue of whether PacTel is providing screening information in compliance with the requirements established in the payphone rulemaking is outside the scope of the CEI review process and is more appropriately addressed in that proceeding or in other proceedings.<sup>205</sup>

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call compensation to LECs. As APCC states, "with a unique screening code, the IXC knows immediately that a call is compensable, and should not have to take any further steps in order to calculate the compensation due for each particular ANI invoiced by an [independent PSP]." APCC Comments at 21. APCC, CPA, AT&T, and MCI also contend that PacTel must provide the same screening capability to COPT Service (Basic) and coin lines. APCC Comments at 18-19; CPA Comments at 4, AT&T at 2; and MCI Comments at 3.

<sup>201</sup> MCI Comments at 3. For example, MCI states that LECs "do not provide [automatic numbering identification] or information digits with feature group B access and from non-equal access areas." MCI contends that, "[a]ccordingly, PSPs would not be able to transmit specific payphone coding digits from payphones in these circumstances and, therefore, they would not be eligible for compensation." *Id.*

<sup>202</sup> PacTel Reply at 12 (citing Policies and Rules Concerning Operator Service Access and Pay Telephone Compensation, CC Docket No. 91-35, Third Report and Order, 11 FCC Rcd 17021, para. 34 (rel. Apr. 5, 1996)). LIDB, or the line identification data base, is offered through regional data bases called service control points, and provides a variety of database services. A LIDB-based solution relies upon the line identification data base to provide originating line screening. Under a LIDB-based solution, an interexchange carrier would have to query the LIDB database each time it receives an "07" code (which simply indicates that the originating line is a restricted line, and not that it is a payphone line) in order to obtain more detailed information about billing restrictions on the originating line.

<sup>203</sup> *Id.* at 13.

<sup>204</sup> PacTel Reply at 13.

<sup>205</sup> See, e.g., Policy and Rules Concerning Operator Service Access and Pay Telephone Compensation, CC Docket No. 91-35, CCB/CPD File Nos. 96-18, 96-25, and 96-32, Memorandum Opinion and Order, DA 96-2169, at 2 n.7 (rel. Dec. 20, 1996) (citing MCI petition for clarification of LECs' obligation to provide screening code digits, and stating that MCI's petition would be addressed in a subsequent order). We note that in its

#### 4. Numbering Assignments

74. According to APCC, the Payphone Order requires LECs to assign line numbers to payphones on a nondiscriminatory basis.<sup>206</sup> It contends that PacTel's CEI plan is deficient in that it does not address the assignment of numbers.<sup>207</sup> For example, APCC maintains that PacTel should be required to reallocate the numbers assigned to the existing base of payphones, without charge, so that an equal percentage of LEC payphones and PSPs are assigned 8000 and 9000 series numbers.<sup>208</sup> In reply, PacTel asserts that it will make number assignments on a nondiscriminatory basis.<sup>209</sup>

75. We agree with APCC that the Payphone Order requires LECs to provide numbering assignments on a nondiscriminatory basis; it did not, however, require LECs to reallocate existing number assignments.<sup>210</sup> PacTel represents that it will assign payphone numbers on a nondiscriminatory basis. We conclude that no further showing is required by PacTel in the context of this CEI plan.

#### 5. Dialing Parity

76. MCI asserts that PacTel does not explain how it will comply with the dialing parity requirement in the Payphone Order, including access to operator services, directory assistance, and directory listings.<sup>211</sup> PacTel responds that this issue should not be dealt with here. It represents that the Commission "conclude[d] that the technical and timing

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Reconsideration Order, the Commission stated that, once per-call compensation becomes effective, "[e]ach payphone must transmit coding digits that specifically identify it as a payphone, and not merely as a restricted line." Reconsideration Order at para. 64. That order further required that "all LECs must make available to PSPs, on a tariffed basis, such coding digits as part of the ANI for each payphone." Id.

<sup>206</sup> APCC Comments at 17 (citing Payphone Order at para. 149).

<sup>207</sup> Id. at 17.

<sup>208</sup> Id. at 17-18 n.16. APCC states that assignment of numbers in the 8000 to 9000 range provides a distinct advantage in the prevention of fraud by alerting overseas operators to refrain from completing collect calls to such numbers. See also CPA Comments at 6 (urging the Commission to require PacTel to commit to assign ANIs in the 8000 or 9000 series to COPT stations on a first come, first served basis, and to facilitate reassignment of payphone ANIs).

<sup>209</sup> PacTel Reply at 15. PacTel notes that the same service representatives will take orders for its PSPs as for other PSPs, and that, if a customer asks for a particular number or number series (including one in the 8000 and 9000 range), and it is available in the desired area, that customer will receive the number on a first-come, first-served basis. Id.

<sup>210</sup> Payphone Order at para. 149.

<sup>211</sup> MCI Comments at 3-4.

requirements established pursuant to Section 251(b)(3), and Section 271(c)(2)(B), should apply equally to payphones," and that it "will apply those requirements to payphones in connection with implementing those sections of the Act."<sup>212</sup>

77. The Payphone Order concluded that the dialing parity requirements adopted pursuant to section 251(b)(3) of the 1996 Act should extend to all payphone location providers.<sup>213</sup> The Commission stated that such dialing parity for payphones should be implemented at the same time as dialing parity for other telephones.<sup>214</sup> PacTel must, of course, comply with these requirements. We conclude, however, that PacTel is not required, as part of the CEI process, to demonstrate how it will comply with these requirements. In the Payphone Order, the Commission specified that a BOC's CEI plan must describe how it will conform to the CEI requirements with respect to the specific payphone services it intends to offer and how it will unbundle those basic payphone services.<sup>215</sup> Therefore, MCI's request that PacTel be required to elaborate upon how it intends to comply with the dialing parity requirement is outside the scope of this CEI review proceeding.

## 6. Uncollectibles

78. AT&T asserts that PacTel must explain its treatment of uncollectibles due to fraud. AT&T contends that, to the extent PacTel establishes a policy of foregoing uncollectibles due to fraud for its payphone service affiliates, the same treatment must be accorded to non-affiliates.<sup>216</sup> PacTel represents that it does not discriminate in its treatment of uncollectibles, and that it will respond to issues concerning the accounting treatment of uncollectibles in CAM proceedings.<sup>217</sup> We find that, while the Payphone Order generally requires that fraud protection must be available on a nondiscriminatory basis, it does not establish any specific requirements for uncollectibles. Because the issue of the treatment of uncollectibles appears to raise principally accounting matters, that issue will be addressed in the review of PacTel's CAM.

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<sup>212</sup> PacTel Reply at 11 (citing Payphone Order at para. 292).

<sup>213</sup> Payphone Order at para. 292.

<sup>214</sup> Id.

<sup>215</sup> Payphone Order at para. 203-04.

<sup>216</sup> AT&T Comments at 3.

<sup>217</sup> PacTel Reply at 36-37.

## 7. Operator Services

79. APCC contends that PacTel's CEI plan fails to specify whether PacTel considers operator services to be part of its deregulated payphone service.<sup>218</sup> APCC claims that, if PacTel's operator services are regulated, PacTel must demonstrate that it is not subsidizing its payphone operations or discriminating between its payphone operations and other PSPs in the provision of these services. For example, if PacTel is offering a commission to its payphone operations for presubscribing its payphones to PacTel's operator services, then such commissions must also be available to unaffiliated PSPs on the same terms and conditions.<sup>219</sup> Operator services are regulated services. Because PacTel must offer such services to affiliated and unaffiliated PSPs on a nondiscriminatory, tariffed basis, PacTel's CEI plan is not deficient because it does not address whether PacTel considers operator services to be part of its deregulated payphone service. We note that, in the Reconsideration Order, the Commission declined to require LECs to make available, on a nondiscriminatory basis, any commission payments provided to their own payphone divisions in return for the presubscription of operator service traffic to the LEC, because the Commission concluded that the level of 0+ commissions paid pursuant to contract on operator service calls was beyond the scope of section 276 and the Payphone proceeding.<sup>220</sup>

## 8. Inmate Calling Services Issues

80. The Inmate Calling Service Provider Coalition (ICSPC) raises a number of issues related to the provision of inmate calling services (ICS). ICSPC contends that PacTel should be required to identify the network support and tariffed services it will provide to its ICS operations.<sup>221</sup> ICSPC also argues that PacTel must disclose whether its regulated operations will provide its ICS operations with inmate call processing and call control functions and information for fraud protection, and the validation of called numbers.<sup>222</sup> ICSPC contends that such services or information must be provided to other carriers on a nondiscriminatory basis. According to ICSPC, PacTel's failure to describe its provision of ICS in detail prevents the Commission from determining whether PacTel has complied with the requirements of section 276.<sup>223</sup> In addition, ICSPC asserts that PacTel should be required

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<sup>218</sup> APCC Comments at 21-22.

<sup>219</sup> Id. at 22.

<sup>220</sup> Reconsideration Order at para. 52.

<sup>221</sup> ICSPC Comments at 2-3, 10.

<sup>222</sup> Id. at 10-12, 14-16, 18.

<sup>223</sup> Id. at 3.

to disclose whether its payphone operations will be responsible for the cost of ICS calls for which its payphone operations are unable to collect the charges.

81. ICSPC also asserts that PacTel must show that any call processing and call control system used for its ICS is being provided on a deregulated basis, regardless of whether that system is located at a central office or at a customer premises.<sup>224</sup> According to ICSPC, to the extent PacTel's call processing and call control systems dedicated to ICS are located in PacTel's central offices, PacTel must provide physical or virtual collocation to other providers.<sup>225</sup> ICSPC also contends that PacTel must disclose information on interfaces between PacTel's equipment dedicated to ICS and its regulated network support services, so that other providers can utilize the same interface if they wish.<sup>226</sup>

82. In a subsequent ex parte filing,<sup>227</sup> ICSPC argues that section 276 requires the BOCs to treat collect call processing for ICS as part of their nonregulated ICS operations, because collect calling is fundamental to ICS.<sup>228</sup> According to ICSPC, if a BOC's ICS operation "hands off" collect calls to its network-based operator services division for processing and that division assumes the responsibility and risk associated with billing and collecting for those calls, then the BOC is essentially providing ICS as a regulated service and is still subsidizing that service contrary to the prohibition in section 276.<sup>229</sup>

83. In response to ICSPC's arguments, PacTel represents that it described in its CEI plan the tariffed network services that it will provide to its ICS, and which are available to all other providers of ICS service at the same rates, terms and conditions.<sup>230</sup> PacTel also represents that all of the descriptions concerning how it will meet CEI requirements for payphone service apply equally to ICS, because ICS is included in the definition of payphone service in section 276, and its CEI plan applies to all services meeting that definition.<sup>231</sup> In addition, PacTel represents that its call control and call processing functions are performed in

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<sup>224</sup> Id. at 10.

<sup>225</sup> Id. at 18.

<sup>226</sup> Id. at 18-19.

<sup>227</sup> See Letter from Albert H. Kramer to William F. Caton, Secretary, Federal Communications Commission (Mar. 19, 1997) (ICSPC Ex Parte Response).

<sup>228</sup> Id. at 1-2.

<sup>229</sup> Id. at 2.

<sup>230</sup> PacTel Reply at 35.

<sup>231</sup> Id. (noting that its positions on billing services, operator services, tracking codes/LIDB, and other issues mentioned by ICSPC are the same regarding ICS payphone services as they are for payphone service in general).



unregulated equipment.<sup>232</sup> With respect to uncollectibles, PacTel asserts that it affords the same treatment to the disputed charges of independent PSPs that purchase its third party billing services as it does for its own disputed charges.<sup>233</sup> PacTel avers that other issues raised by ICSPC concerning PacTel's accounting treatment of uncollectibles relate directly to its cost allocation manuals, and that it will respond in CAM Revision proceedings.<sup>234</sup> PacTel maintains that, as discussed above, it has met the technical requirements relating to interface functionality and technical characteristics.<sup>235</sup>

84. Section 276 specifically defines payphone service to include the provision of inmate telephone service in correctional institutions.<sup>236</sup> In the Reconsideration Order, we clarified that the requirements of the Payphone Order apply to inmate payphones that were deregulated in an earlier order.<sup>237</sup> Thus, PacTel is required to reclassify as unregulated assets all of its payphone assets related to its provision of ICS, with the exception of the loops connecting the inmate telephones to the network, the central office "coin service" used to provide the ICS, and the operator service facilities used to support the ICS.<sup>238</sup> In addition,

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<sup>232</sup> Id. at 36. PacTel represents in its CEI plan that all unregulated call control equipment used by its payphone operation is located on the customers' premises, except for Pacific Bell's Inmate Call Control Units ("ICCU's") which it has in central offices. PacTel states that Pacific Bell's ICCUs are located in central offices because LEC payphones traditionally were part of network service. It avers that "[a]ll our call control equipment, regardless of location, will interconnect to the network using the same tariffed service (i.e., COPT Service, including 1PF) at the same price as is available to independent PSPs for use with their call control equipment on customers' premises." PacTel CEI Plan at 11.

<sup>233</sup> PacTel Reply at 37. Under its third party billing tariffs, PacTel seeks collection of the entire balance due from the billed party, including amounts billed on separate pages. Id. Independents who purchase its billing services can have PacTel investigate disputed charges on their behalf. In that case, PacTel undertakes the same investigation, and takes the same collection actions, as it does for its own disputed charges. Id. Alternatively, independent PSPs purchasing PacTel's billing service may also conduct their own investigation with support from PacTel's billing services group. Id.

<sup>234</sup> Id. (noting that ICSPC raised the same issues in the CAM Revision proceedings).

<sup>235</sup> Id. at 37-38 (noting that it interconnects inmate lines to its collocated unregulated equipment using the same technical interfaces as independent PSPs use to interconnect their unregulated equipment to inmate lines on the premises of correctional facilities).

<sup>236</sup> 47 U.S.C. § 276(d).

<sup>237</sup> Reconsideration Order at para. 131 (citing Petition for Declaratory Ruling by the Inmate Calling Services Providers Task Force, Declaratory Ruling, 11 FCC Rcd 7362, 7373 (rel. Feb. 20, 1996) (Inmate Service Order); Petitions for Waiver and Partial Reconsideration or Stay of Inmate-Only Payphones Declaratory Ruling, Order, 11 FCC Rcd 8013 (Com. Car. Bur. 1996)).

<sup>238</sup> See Payphone Order at paras. 157, 159.

PacTel is required to offer on a tariffed basis any basic payphone service or network feature used to provide ICS.<sup>239</sup>

85. We conclude that PacTel's CEI plan comports with our CEI requirements with respect to its provision of ICS. PacTel represents that the underlying network services used to interconnect its ICS are available on a tariffed basis to all PSPs under the same terms, prices, and conditions.<sup>240</sup> Although we agree with ICSPC that any call processing and call control equipment related to PacTel's provision of ICS must be reclassified as nonregulated, regardless of whether that equipment is located in a customer premises or a PacTel central office,<sup>241</sup> PacTel represents that it has done so. We find no support in the Payphone Order or in the Reconsideration Order for ICSPC's contention that PacTel is required to provide collect calling as a nonregulated service when used with inmate payphones.

86. We conclude that the other issues raised by ICSPC related to the provision of ICS either have already been addressed in this Order or are beyond the scope of this proceeding. We find no requirement in the Commission's rules, and ICSPC has cited no authority, that obligates PacTel to allow the collocation of nonaffiliated providers' call processing and call control equipment in a central office. As previously noted, the issue of the treatment of uncollectibles will be addressed in the review of PacTel's CAM. Finally, with regard to the disclosure of interface information, we concluded above that PacTel's CEI plan comports with the Commission's network information disclosure requirements.

## 9. Primary Interexchange Carrier Selection

87. Oncor asserts that in order for PacTel's CEI plan to comply with the "spirit" of the Commission's CEI requirements, the plan must address various issues concerning the payphone PIC selection process.<sup>242</sup> AT&T also asserts that PacTel's CEI plan should describe how PacTel will ensure that the PIC selection process for payphones will be performed on a

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<sup>239</sup> See Payphone Order at paras. 146-49; Reconsideration Order at paras. 162-63.

<sup>240</sup> PacTel Reply at 35.

<sup>241</sup> Payphone Order at paras. 157, 159. See also Inmate Service Order, 11 FCC Rcd at 7373.

<sup>242</sup> Oncor Comments at 5. According to Oncor, PacTel should have described: (1) how it will manage the payphone PIC selection and order implementation process; (2) how it will ensure that all PIC orders obtained pursuant to PacTel agreements with location owners will be handled on a nondiscriminatory basis, and that all valid PIC orders and location provider agreements will be honored and will not be subject to interference by PacTel or anyone else; (3) how its marketing personnel will be trained and supervised to ensure that they do not misrepresent PacTel's role in the payphone PIC selection process; and (4) how its personnel involved in the PIC ordering and implementation processes will be trained and supervised to ensure that they do not "interfere" with the sales and marketing of interexchange services from payphones. Id.

nondiscriminatory basis.<sup>243</sup> PacTel responds that AT&T's and Oncor's comments concerning PIC selection are not relevant to this proceeding.<sup>244</sup>

88. We conclude that PacTel is not required, as part of the CEI process, to demonstrate how it will administer the PIC selection process for payphones. In the Payphone Order, the Commission specified that a BOC's CEI plan must describe how it will conform to the CEI parameters with respect to the specific payphone services it intends to offer and how it will unbundle those basic payphone services.<sup>245</sup> The payphone rulemaking proceeding did not, however, require the BOCs to describe how they will administer the PIC selection process in their CEI plans, as argued by AT&T and Oncor. Therefore, arguments raised by parties regarding PacTel's role as PIC administrator are beyond the scope of this proceeding.

#### 10. Subscriber-Selected Call Rating

89. APCC and CPA contend that, in order to meet the Commission's CEI requirements, PacTel must provide a coin line service that allows independent PSPs to set their own end user rates for local and intraLATA calls, as well as to establish the length of initial and overtime periods.<sup>246</sup> They therefore request the Commission to require PacTel to develop a more flexible rating feature for its coin line service.<sup>247</sup> PacTel responds that this same request was made by the parties in the Payphone Proceeding, and that the Commission declined to adopt it.<sup>248</sup> In addition, PacTel argues that, "[b]y offering the same COPT coin line service, including the same call rating functionality, to other PSPs as we provide to our own, we have met the CEI plan requirement."<sup>249</sup>

90. We find that the Payphone Order did not require the BOCs to provide to independent PSPs an unbundled call rating feature for coin line services.<sup>250</sup> In addition, on

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<sup>243</sup> AT&T Comments at 3.

<sup>244</sup> See PacTel Reply at 31.

<sup>245</sup> Payphone Order at paras. 203-04.

<sup>246</sup> APCC Comments at 12. See also CPA Comments at 10. APCC argues that, permitting PacTel to offer a coin line service that forces its subscribers to price payphone calls at PacTel's set rates would be contrary to the purpose of section 276 of promoting payphone competition, and would permit PacTel to discriminate in favor of its payphone division. APCC Comments at 10-11.

<sup>247</sup> CPA Comments at 10; APCC Comments at 12.

<sup>248</sup> PacTel Reply at 9.

<sup>249</sup> Id.

<sup>250</sup> Payphone Order at paras. 146-48. See also Reconsideration Order at para. 165.

reconsideration of the Payphone Order, in response to a request that the Commission require access to, inter alia, call rating capabilities,<sup>251</sup> the Commission specifically declined to require further unbundling of payphone services beyond those established in the Payphone Order.<sup>252</sup> As previously noted, independent PSPs may seek additional unbundling through the 120 day ONA process, and state regulatory commissions may impose further unbundling requirements.

## 11. Selection of Operator Services Provider

91. APCC requests that the Commission require PacTel to unbundle operator services from its coin line service so that PSPs may select the operator service provider (OSP) for intraLATA calls.<sup>253</sup> APCC argues that, under section 276, PSPs are entitled to select the OSP for intraLATA calls, including local, operator-assisted calls, and therefore that, to the extent PacTel does not permit OSP selection for its coin line service, its CEI plan is inconsistent with section 276.<sup>254</sup> We concur with PacTel that APCC's request is beyond the scope of this proceeding,<sup>255</sup> which is limited to determining whether PacTel's CEI plan complies with the Commission's Computer III CEI requirements.<sup>256</sup>

## 12. Billing and Collection and Coin Refund Services

92. CPA and SDPA request that, to the extent PubCom is allowed to use PacTel's billing and collection services, the Commission require PacTel to offer nondiscriminatory access to such services to independent PSPs.<sup>257</sup> We reject CPA's and SDPA's request. In the

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<sup>251</sup> On reconsideration, the New Jersey Payphone Association requested that the Commission require access to call rating capabilities, answer supervision, call tracking, joint marketing, installation and maintenance, and billing and collection. See Reconsideration Order at para. 155.

<sup>252</sup> Reconsideration Order at para. 165.

<sup>253</sup> APCC Comments at 12. APCC notes that, while PacTel states that PSPs can select the OSP for intraLATA calls with its COPT Service (Basic) service, PacTel's CEI plan is silent with respect to OSP selection for its coin line service. Id. (citing PacTel CEI Plan at 4).

<sup>254</sup> Id.

<sup>255</sup> See PacTel Reply at 10.

<sup>256</sup> We note that, as PacTel states, PubCom will be provided the same COPT coin line service, including the same operator service, as is available to other PSPs. See PacTel Reply at 11. If independent PSPs seek a different arrangement, they may request it through the 120 day ONA process.

<sup>257</sup> CPA Comments at 8; SDPA Comments at 4 (arguing that PubCom's preferential access to the LEC's accounting, and billing and collection systems, and call completion data, should be discontinued). CPA also requests that the Commission require PacTel to impute to PubCom the tariffed rates for the billing and collection services its LEC operations provide on PubCom's behalf. CPA Comments at 8. CPA adds that, if PacTel cannot make the same billing elements it provides to PubCom available on an unbundled, nondiscriminatory

Payphone Order, the Commission concluded that a LEC must provide billing and collection services provided to its own payphone operations to independent PSPs on a nondiscriminatory basis only if the LEC "provides basic, tariffed payphone services that will only function in conjunction with billing and collection services from the LEC."<sup>258</sup> On reconsideration, the Commission reaffirmed this conclusion, stating that "[w]e decline to require access to unregulated services, such as installation and maintenance of unregulated CPE, and billing and collection (beyond the requirement established in the Report and Order)."<sup>259</sup> Because the basic payphone services offered by PacTel do not require PacTel's billing and collection to function,<sup>260</sup> PacTel may provide billing and collection services on behalf of its payphone operations, without providing such services to third parties in the same manner, so long as PacTel properly accounts for the unregulated use.<sup>261</sup>

93. CPA also requests the Commission to require PacTel to offer independent PSPs an equivalent coin refund service, including providing credits on PacTel subscriber bills, to that provided on behalf of PubCom.<sup>262</sup> We reject CPA's request. PacTel states that, beginning April 15, 1997, its operators will handle calls from end users seeking refunds from PubCom payphones in the same way that they handle calls for refunds from other PSPs'

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basis, PacTel must charge PubCom a premium for use of them, because it claims that all basic network capabilities used by its own service divisions, including billing capabilities, must be offered to competitors. CPA Comments at 8-9 (citing Computer III, 104 FCC 2d at 1040). See also CPA April 11 Ex Parte (arguing that "the principle of Comparably Efficient Interconnection should mandate that if Pacific Bell chooses to make its billing envelope available to PubCom [for marketing materials relating to payphones] it should also make its billing envelope available for marketing materials of competing payphone service providers").

<sup>258</sup> Payphone Order at para. 149. The Commission stated that this requirement would apply, for example, in situations in which coin services require the LEC to monitor coin deposits and such information is not otherwise available to third parties for billing and collection. Id.

<sup>259</sup> Reconsideration Order at para. 166 (noting that services the Commission has deregulated are available on a competitive basis and do not have to be provided by LECs as the only source of services).

<sup>260</sup> Policy Division March 20 Ex Parte (noting that other PSPs can perform their own billing and collection services, purchase those services from a third party, or purchase them from PacTel through its third party billing tariff).

<sup>261</sup> See PacTel Reply at 18. CPA contends that it is unaware of any provision in Pacific Bell's CAM for the assignment of any portion of billing costs to PubCom. We note, however, that customer billing costs are located in account 6623, and product advertising costs are primarily found in account 6613 of Pacific Bell's CAM, and that Pacific Bell's CAM reflects cost pools to allocate such costs between regulated and nonregulated activities, which include the nonregulated activities of PubCom.

<sup>262</sup> CPA Comments at 6-7. CPA claims that PacTel currently responds to requests for refunds by offering: (1) to provide a free call from the payphone; (2) to send a check for the amount of the coin deposit to the caller; or (3) to provide a credit on the caller's monthly bill for local service. Id. CPA claims that once PacTel has separated its LEC operations from PubCom, PubCom could not provide credits on customer bills without the active participation by the LEC.

payphones: they will refer callers to signs posted on payphone equipment for the number to call for refunds.<sup>263</sup> Nothing more is required by the Payphone Order. In addition, we agree with PacTel that billing services are not subject to CEI or payphone proceeding nondiscrimination requirements.<sup>264</sup> Thus, PubCom's use of Pactel's billing services<sup>265</sup> to provide coin refunds through credits on customer bills is consistent with the requirements of the Payphone Order. We note that PacTel must, of course, properly account for PubCom's use of such services.

### 13. Interim Compensation Scheme

94. Telco argues that apart from the numerous deficiencies in PacTel's CEI plan, the Commission should refrain from allowing PacTel or any BOC to participate in the interim compensation scheme outlined in the Payphone Order.<sup>266</sup> We find that this argument is beyond the scope of this CEI review proceeding. Moreover, the interim compensation rules were addressed at length in the payphone rulemaking proceeding.<sup>267</sup>

### 14. Semi-Public Payphone Service Issues

95. Finally, APCC maintains that, to the extent that PacTel's payphone operations continue to offer "semi-public-like" payphone service that involves charging location providers for lines and usage of their payphones, PacTel must disclose how such service will

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<sup>263</sup> PacTel Reply at 20. According to PacTel, Pacific Bell has operator services contracts with five independent LECs, pursuant to which Pacific Bell periodically forwards to such LECs the names and telephone numbers of the LECs' payphone customers who call Pacific Bell's operators for coin refunds. PacTel represents that, on March 31, 1997, Pacific Bell sent notices to these LECs informing them that this service will be eliminated on June 1, 1997. Thus, according to PacTel, effective June 1, 1997, Pacific Bell will apply the same payphone refund process to these LECs as is applicable to Pacific Bell's and Nevada Bell's PSPs and to other PSPs. Policy Division April 1 Ex Parte.

<sup>264</sup> See PacTel Reply at 20. See also Detariffing of Billing and Collection Services, CC Docket No. 85-88, Report and Order, 102 FCC 2d 1150 (1986); Filing and Review of Open Network Architecture Plans, CC Docket No. 88-2, Phase I, Memorandum Opinion and Order, 4 FCC Rcd 1, 59 (1988); Filing and Review of Open Network Architecture Plans, CC Docket No. 88-2, Phase I, Memorandum Opinion and Order on Reconsideration, 5 FCC Rcd 3084, 3088 (1990) (refusing to require BOCs to provide billing and collection services to ESPs, because "[a]t present ESPs are generally able to bill their subscribers without our mandating that BOCs perform such services for them"); Payphone Order at para. 149; Reconsideration Order at para. 166.

<sup>265</sup> After April 15, PubCom customers will still be able to request a credit on their monthly phone bill if they are PacTel subscribers. PacTel Reply at 20 (noting that Nevada Bell customers have the option of call completion or a refund via a pre-paid calling card).

<sup>266</sup> Telco Comments at 4-7.

<sup>267</sup> See e.g. Reconsideration Order at para. 114-15 (describing the interim compensation mechanism adopted in the Payphone Order).

be supported by its network operations and how charges for the service will be treated on the subscriber's bill.<sup>268</sup> We find these semi-public payphone service issues to be beyond the scope of the CEI review process.

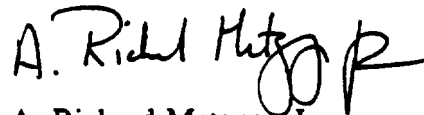
## V. CONCLUSION

96. We conclude that PacTel's CEI plan complies with the Computer III requirements, contingent upon the effectiveness of its state tariffs for payphone services. Accordingly, in this Order, we approve PacTel's CEI plan to offer Basic Payphone Service, as described herein.

## VI. ORDERING CLAUSE

97. IT IS HEREBY ORDERED that, pursuant to Sections 1, 4(i) and (j), 201, 202, 203, 205, 218, 222, 276 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i) and (j), 201, 202, 203, 205, 218, 222, and 276 and authority delegated thereunder pursuant to Sections 0.91, 0.291, and 1.3 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 1.3, PacTel's Comparably Efficient Interconnection Plan for the Provision of Basic Payphone Service IS APPROVED, subject to the requirements and conditions discussed herein.

Federal Communications Commission



A. Richard Metzger, Jr.  
Deputy Chief, Common Carrier Bureau

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<sup>268</sup> APCC Comments at 25.

April 15, 1997

Mr. S. Robert Weissman  
California Public Utilities Commission  
505 Van Ness Avenue, Room 3211  
San Francisco, CA 94102

Dear Mr. Weissman:

Pursuant to the FCC's April 4, 1997 Order in FCC CC Docket 96-128, Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, Pacific Bell hereby advises the Commission that the rates filed for COPT Basic Service, COPT Coin Line, COPT Inmate Services, COPT Charge-a-Call, and Answer Supervision all meet the FCC new services test.


The COPT Basic Service, Inmate Service and Charge-a-Call tariffs were all revised in 1991 and became effective in 1995 as a result of the IRD proceeding (I.87-11-033). This decision set rates for this service based on costs submitted by Pacific and the addition of the EUCL rate as ordered by the CPUC. The same costs were used for the COPT Coin Service tariff rate which was submitted and became effective in 1992. A just and reasonable overhead was used in both filings and was consistent across this family of products.

Answer Supervision was filed in 1989 as part of the OANAD unbundling proceeding. Product costs were submitted and approved by the CPUC as valid. A just and reasonable overhead was used and was consistent across this family of products.

Attached are copies of the cost justification submitted at the time of the original tariff filings which support our position that Pacific's rates meet the new services test. In addition, Pacific will revisit this data and file new studies if required.

No action on the part of the CPUC is required in response to this letter.

Yours truly,

  
Lynne Elizondo  
Regulatory Manager

Attachments



May 19, 1997

Mr. S. Robert Weissman  
California Public Utilities Commission  
505 Van Ness Avenue, Room 3211  
San Francisco, CA 94102

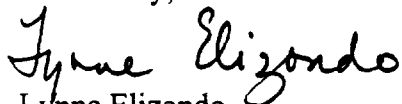
Dear Mr. Weissman:

In our letter of April 15th, we submitted cost justification showing that Pacific's existing rates meet the new services test as required by FCC CC Docket No. 96-128, Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996. We also stated that we would revisit the data under the current cost study methodology.

Attached please find this new data which demonstrates that Pacific's existing rates pass the new services test under the current costing methodology. We are providing data on COPT Coin Line, COPT Basic, and Answer Supervision.

This information, which is being provided to you under G.O. 66c, confirms our original letter of April 15th.

Yours truly,

  
Lynne Elizondo  
Regulatory Manager

Attachments